

Warren E. Waters

Richard C. Duncan

February 19, 1954

John Jacobson, Jr., Brig. General
The Adjutant General
Concord, New Hampshire

Dear General Jacobson:

I am in receipt of two communications from you of the same date, February 12, 1954, the first inquiring whether it is legal for the Democratic Party to use the state armory in Manchester for the purpose of conducting its annual Jefferson-Jackson Day Dinner on the night of May 19, 1954 upon a non-profit basis, and the second, whether the Shrine may use the armory on May 22, 1954 for the purpose of holding its annual Spring Ceremonial.

You are respectfully advised that it is the opinion of this office that the present law and regulations permit the former use, but not the latter.

Revised Laws, chapter 144, section 105, in providing for use of the armory when not interfering with military and veteran organizations, states in part:

"105. Use for Public Meetings, etc. armories may be used for conventions, public meetings, exhibitions, expositions, and charitable purposes not sectarian or fraternal, under such regulations as may be promulgated by the adjutant-general with the approval of the governor and council."

The Jefferson-Jackson Day Dinner being neither fraternal, and certainly not for charitable purposes,

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meets the test of convention or public meeting (upon a non-profit basis, i.e., not a fund-raising gathering) and it is expressly permitted.

However, the meeting of the Shrine for purposes of holding its own Ceremonial and admitting only its own members, excluding the general public, does not qualify as a public meeting, exhibition or exposition, nor is it a gathering for charitable purposes, whether or not otherwise proscribed as fraternal. Thus the only basis upon which it is even arguable that the Shrine might meet in the armory is that it is a convention. An examination of the definition of "convention" in Webster's New International Dictionary fails to provide a basis upon which to conclude that a meeting of a fraternal order for fraternal purposes of working secret degrees could reasonably be interpreted as a convention.

On July 7, 1949 the then Attorney General specifically ruled that the statute in form presently extant did not permit the use of armories in New Hampshire for fraternal or sectarian purposes. This was followed on May 7, 1951 by another, exhaustive, opinion of the then Assistant Attorney General (presently Deputy Attorney General) outlining the history of the 1929 amendment as affected by the changes in the 1942 revision of laws, and affirming a conclusion that the statute prohibits the use of armories for fraternal or sectarian purposes. This is not to say that a meeting for broad charitable purposes benefiting the general public under sponsorship of a sectarian or fraternal organization is proscribed, per se, but it is noteworthy that as late as the 1953 Session of the Legislature a joint resolution was passed to permit the use of the armory with respect to charitable purposes affecting St. George's Church. As was stated in the opinion of May 7, 1951:

"The distinction lies between furthering the corporate interests of the fraternity or sect and furthering the public interest under the sponsorship of the fraternity or sect. The latter would not seem to be a fraternal or sectarian purpose; the former is."

The Shrine request for use of the armory to hold within it its secret rites is quite clearly an exclusive and private fraternal purpose.

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In view of the history of the statute and uniform rulings of prior Attorneys General, I am constrained to advise that until and unless the next session of the Legislature specifically authorizes such use, it is presently prohibited.

Sincerely,

Louis C. Wyman
Attorney General

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